

Childcare Bill [HL]

MARSHALLED LIST OF AMENDMENTS TO BE MOVED IN COMMITTEE

[Amendments marked ★ are new or have been altered]

Amendment
No.

Before Clause 1

BARONESS JONES OF WHITCHURCH
LORD TOUHIG

1 Insert the following new Clause—

“Consultation and reviews

In order to ensure that the duty in section 1(1) can be implemented effectively, the Secretary of State shall, before the end of 2017—

- (a) arrange for the following to be conducted and completed—
 - (i) a review of the cost of providing childcare;
 - (ii) an impact assessment for the provisions of section 1;
 - (iii) a consultation with parents and childcare providers;
 - (iv) a review of the 2016 pilot scheme;
 - (v) the taskforce on childcare led by the Minister of Employment in the Department for Work and Pensions;
- (b) arrange for a report on each of the pieces of work under paragraph (a) to be laid before Parliament; and
- (c) publish and make available for consultation a draft of any regulations which the Secretary of State intends to make under section 1.”

BARONESS MASSEY OF DARWEN

2 Insert the following new Clause—

“Welfare of children in the delivery of childcare under this Act

- (1) In exercising her duties under this Act, the Secretary of State shall—
 - (a) hold the welfare of all children as paramount in the delivery of childcare in England;

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Before Clause 1 – continued

- (b) promote the progressive development of persons and institutions which provide childcare;
 - (c) promote the effective execution by local authorities of their childcare duties under Part 1 of the Childcare Act 2006;
 - (d) ensure that childcare provision under sections 1 and 2 provides valuable early years education and contributes to closing gaps between children from disadvantaged backgrounds and their peers; and
 - (e) ensure that childcare in early years settings should provide caring and positive experiences which support children’s development and prepare children to thrive at school and in later life.
- (2) In this Act “welfare” in relation to childcare means the welfare of children in childcare in so far as it relates to –
- (a) physical and mental health and emotional welfare;
 - (b) protection from harm and neglect;
 - (c) education and recreation; and
 - (d) social and economic welfare.”

Clause 1

BARONESS JONES OF WHITCHURCH
LORD TOUHIG

- 3 Page 1, line 3, leave out “The Secretary of State” and insert “Every English local authority”

THE EARL OF LISTOWEL
LORD NORTHBOURNE

- 4 Page 1, line 3, after “that” insert “high-quality”

THE EARL OF LISTOWEL

- 5 Page 1, line 4, after “working” insert “or homeless”

- 6 Page 1, line 5, at end insert –

- “(1A) For the purposes of securing “high-quality childcare” under subsection (1), the Secretary of State must, within 6 months of this section coming into force, lay a report before both Houses of Parliament setting out her strategy for developing the early years workforce.
- (1B) The strategy mentioned in subsection (1A) must include in particular –
- (a) a target for the number of graduates in the early years workforce,
 - (b) a target for the proportion of managers of early years settings who are graduates, and
 - (c) a plan for increasing the number of nursery schools to a specified level.”

Amendment
No.

Clause 1 – *continued*

LORD NORTHBOURNE

7★ Page 1, line 5, at end insert –

“(1A) For the purposes of subsection (1), “high-quality childcare” means childcare which complies with standards that shall be set out by the Secretary of State in regulations made under subsection (4), which shall reflect –

- (a) the unique affective relationship between a child and their mother or principal carer,
- (b) the importance for a child of learning in their early years how to love and be loved,
- (c) the importance for a child of learning in their early years the basis of the relationship skills which they will need and which will help them as they grow up into adulthood, and
- (d) the positive role which high-quality childcare can play in developing and supporting children/parent relationships.”

THE EARL OF LISTOWEL

8 Page 1, line 6, leave out “of working parents”

9 Page 1, line 10, at end insert –

- “() “Working parents” shall be taken to include parents who –
- (a) are care leavers in education or training,
 - (b) are on courses to improve their literacy or numeracy,
 - (c) are foster carers currently caring for one or more foster child, or
 - (d) have one or more child at risk of significant harm.”

BARONESS PINNOCK
BARONESS TYLER OF ENFIELD

10 Page 1, line 10, at end insert –

- “() Regulations under subsection (2)(c) must ensure that the description of “qualifying child of working parents” includes children between the ages of 1 and 2 years.”

LORD TOUHIG
BARONESS JONES OF WHITCHURCH

11 Page 1, line 10, at end insert –

- “() “Working parents” means –
- (a) parents who work a minimum of 8 hours a week each,
 - (b) a single parent who works 8 hours a week,
 - (c) a parent who is not in work but is receiving work-related training,
 - (d) a parent who is the main carer for a family member,
 - (e) a parent on a flexible working contract of an equivalent of 8 hours per week,
 - (f) a parent whose contract has unexpectedly ended through no fault of their own,

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Clause 1 – *continued*

(g) a parent who engages regularly in voluntary work.”

12

Page 1, line 18, at end insert –

“(3A) In order to support the effective implementation of the duty under subsection (1), the Secretary of State shall arrange for a review to be conducted that shall include, but shall not be limited to –

- (a) an assessment of how the new entitlements in this Act will support the inclusion of disabled children and those with special educational needs;
- (b) an assessment of how the existing structures and framework for childcare meet the needs of disabled children and those with special educational needs;
- (c) an assessment of existing barriers that limit access to childcare by disabled children;
- (d) an estimate of the access to the current entitlement of free early education;
- (e) an assessment of how many local authorities have sufficient childcare for disabled children;
- (f) a calculation of the additional costs, funding and support required to meet the needs of providing childcare to disabled children;
- (g) an analysis of the workforce available and their ability to provide quality childcare for disabled children.

(3B) The report of the review under subsection (3A) shall be laid before both Houses of Parliament.

(3C) Once the review has concluded, the Secretary of State shall establish a strategy for improving the skills of the early years workforce to meet the needs of disabled children and those with special educational needs.

(3D) Where the Secretary of State does not adopt a recommendation from the review, the Secretary of State must set out the reasoning for doing so.”

BARONESS JONES OF WHITCHURCH
LORD TOUHIG

13

Page 1, line 18, at end insert –

“() The Secretary of State shall arrange for a review to be conducted to assess whether the qualifications and pay levels of staff are sufficient to meet the level of childcare provision necessary to fulfil the duty under subsection (1).

() The review shall include, but shall not be limited to –

- (a) an assessment of progress in delivering level 3 as the new qualification standard whilst supporting trainees to gain practical experience;
- (b) an assessment of progress in introducing early years career paths which lead to Early Years Teacher status, and include ongoing continuous professional development;
- (c) research on the number of black and ethnic minority staff at different qualification levels, including proposals to engage with the sector to address any issues identified;

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No.

Clause 1 – *continued*

- (d) an assessment of recruitment and retention statistics including reasons given for leaving the profession;
- (e) a comparison with pay levels in other equivalent professions and an assessment of the case for a national pay structure.”

14★ Page 1, line 18, at end insert –

- “(3E) In order to ensure the effective implementation of the duty under subsection (1), the Secretary of State shall establish an independent review of the free childcare entitlement funding system, including a large-scale analysis of the cost of delivering funded places.
- (3F) The review established under subsection (3E) shall consult local authorities, childcare providers, employers, parents and others with an interest.
- (3G) The Secretary of State must establish a comprehensive and sustainable funding solution taking into account the findings of the funding review to address the funding of existing childcare and the additional requirements on childcare providers arising from this legislation.”

LORD NORTHBOURNE

15★ Page 1, line 20, at end insert “or (1A)”

BARONESS TYLER OF ENFIELD
BARONESS PINNOCK

16 Page 1, line 20, at end insert –

- “() In discharging their duty under subsection (1) and supporting local authorities to meet their duties under section 7 of the Childcare Act 2006 (duty to secure prescribed early years provision free of charge), the Secretary of State must ensure –
- (a) childcare providers are suitably qualified and trained to deliver high-quality care to disabled children and children with special educational needs;
- (b) childcare providers have facilities suitable for disabled children and children with special educational needs;
- (c) childcare providers are able to access additional funding to meet the needs of disabled children and children with special educational needs.”

THE EARL OF LISTOWEL

17 Page 1, line 21, at end insert –

- “() require early years settings to provide a specified number of training hours per year to each of their staff, for the purposes of securing high-quality childcare under subsection (1);”

Amendment
No.

Clause 1 – continued

BARONESS JONES OF WHITCHURCH
LORD TOUHIG
LORD TRUE

18 Page 2, line 11, leave out paragraph (g)

19 Page 2, line 22, leave out paragraph (k)

BARONESS TYLER OF ENFIELD
BARONESS PINNOCK

20 Page 2, line 23, at end insert –
“() make provision about the quality of childcare which is to be made available”

BARONESS PINNOCK
BARONESS TYLER OF ENFIELD

21 Page 2, line 23, at end insert –
“() Regulations as described in subsection (5)(c) must ensure that the times available provide sufficient flexibility –
(a) to parents who work outside the hours of 9.00am to 5.00pm, Monday to Friday; and
(b) to ensure that childcare is available during school holidays within the local authority area of the relevant childcare provider.”

BARONESS JONES OF WHITCHURCH
LORD TOUHIG

22 Page 2, line 27, leave out subsection (7)

23 Page 2, line 30, at end insert –

“(7A) In order to ensure the safe and effective implementation of the duty under subsection (1), the Secretary of State shall make regulations for the purposes of prescribing staff to child ratios in Ofsted-registered childminder settings.

(7B) Regulations under subsection (7A) may provide that –
(a) the ratio of staff to children under the age of eight must be no less than one to six, of whom –
(i) a maximum of three may be young children, and
(ii) a maximum of one may be under the age of one;
(b) any care provided by childminders for older children must not adversely affect the care of children receiving early years provision;
(c) if a childminder can demonstrate to parents, carers and inspectors that the individual needs of all the children are being met, then in addition to the ratio set out in paragraph (a), they may also care for –
(i) babies who are siblings of the children referred to in paragraph (a), or
(ii) their own baby;

**Amendment
No.**

Clause 1 – continued

- (d) if children aged between four and five years only attend the childminding setting outside of normal school hours or the normal school term time, they may be cared for at the same time as three other young children, provided that the ratio of staff to children under the age of eight does not exceed one to six at any time;
 - (e) if a childminder employs an assistant or works with another childminder, each childminder or assistant may care for the number of children permitted by the ratios specified in paragraphs (a), (c) and (d);
 - (f) children may only be left in the sole care of a childminder's assistant for two hours in a single day;
 - (g) childminders must obtain the permission of a child's parents or carers before that child can be left in the sole care of a childminder's assistant;
 - (h) the ratios in paragraphs (a), (c) and (d) apply to childminders providing overnight care, provided that the children are continuously monitored, which may be through the use of electronic equipment.
- (7C) For the purposes of this section a child is –
- (i) a “young child” up until the 1 September following his or her fifth birthday;
 - (ii) an “older child” after the 1 September following his or her fifth birthday.”

24★

Page 2, line 30, at end insert –

- “(7D) In order to ensure the safe and effective implementation of the duty under subsection (1), the Secretary of State shall make regulations for the purposes of prescribing staff to child ratios in Ofsted-registered non-domestic childminder settings.
- (7E) Regulations under subsection (7D) may provide that, for children between the ages of two and three –
- (a) the ratio of staff to children must be no less than one to four;
 - (b) at least one member of staff must hold a full and relevant level 3 qualification; and
 - (c) at least half of all other members of staff must hold a full and relevant level 2 qualification.
- (7F) Where there is a registered early years provision for children aged 3 and over, which operates between 8 am and 4 pm, and a member of staff with Qualified Teacher Status, Early Years Professional Status or other full and relevant level 6 qualification is working directly with the children –
- (a) the ratio of staff to children must be no less than one to 13; and
 - (b) at least one other member of staff must hold a full and relevant level 3 qualification.
- (7G) Where there is a registered early years provision for children aged 3 and over, which operates outside the hours of 8 am to 4 pm as well as between the hours of 8 am and 4 pm, where a member of staff with Qualified Teacher Status, Early Years Professional Status or other full and relevant level 6 qualification is not working directly with the children –
- (a) the ratio of staff to children must be no less than one to eight;

**Amendment
No.**

Clause 1 – continued

- (b) at least one member of staff must hold a full and relevant level 3 qualification; and
 - (c) at least half of all the other staff must hold a full and relevant level 2 qualification.
- (7H) In maintained nursery schools and nursery classes in maintained schools (except reception classes) in which childcare is being provided which fulfils the duty in subsection (1) –
 - (a) the ratio of staff to children must be no less than one to 13;
 - (b) at least one member of staff must be a school teacher as defined by section 122(3) (power to prescribe pay and conditions) of the Education Act 2002 and Schedule 2 to the Education (School Teachers' Qualifications) (England) Regulations 2003; and
 - (c) at least one other member of staff must hold a full and relevant level 3 qualification.
- (7I) The Secretary of State may –
 - (a) define qualifications as “full and relevant”; and
 - (b) define “suitable experience” for those working with children under two.
- (7J) The Secretary of State may amend subsections (7D) to (7H) by imposing different ratios where HM Chief Inspector of Education is concerned about the quality of childcare provision or the safety and wellbeing of children in a childcare setting.”

BARONESS MASSEY OF DARWEN

- 25 Page 2, line 46, at end insert –
- “() is a grandparent with the main caring responsibility for the child or children,”

BARONESS PINNOCK
BARONESS TYLER OF ENFIELD

- 26 Page 3, line 2, at end insert –
- ““working parent” includes any individual who –
- (a) is in contracted employment for at least 8 hours work a week;
 - (b) is self-employed at a level equivalent to working 8 hours a week;
 - (c) is on a zero hours contract;
 - (d) is an apprentice;
 - (e) is engaged in education or training for a minimum of 8 hours a week;
 - (f) is a carer who qualifies for carers allowance; or
 - (g) is undertaking voluntary work or work experience for a minimum of 8 hours a week.”

Amendment
No.

Clause 2

BARONESS JONES OF WHITCHURCH
LORD TOUHIG

27 Page 3, line 17, leave out subsections (4) and (5) and insert –

“() A statutory instrument containing regulations under subsections (1) and (2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

LORD TRUE

28★ Page 3, line 21, at end insert –

“() Nothing in any regulations under this Act may impose any obligation on any private or voluntary childcare setting or school that does not wish, or is unable, to –

- (a) participate in a scheme, or any part of a scheme;
- (b) provide such information to the Secretary of State, a public body or local authority as may be required under this Act of participants in a scheme,

under this Act to provide 30 hours of free childcare.”

After Clause 2

THE EARL OF LISTOWEL

29 Insert the following new Clause –

“Commission

- (1) Within two years of the coming into force of section 1, the Secretary of State shall appoint a Commission to review the implementation of this Act, with particular regard to value for money.
- (2) The Commission appointed under subsection (1) must include –
 - (a) the Children’s Commissioner for England,
 - (b) a representative of the Institute for Fiscal Studies, and
 - (c) a representative of the Nuffield Foundation.”

BARONESS PINNOCK
BARONESS TYLER OF ENFIELD

30 Insert the following new Clause –

“Funding of childcare

For the purpose of discharging the duty imposed by section 1, the Secretary of State must ensure that the level of payment made to any childcare provider by the Secretary of State for the provision of childcare is paid at a rate which ensures that the provider –

- (a) is able to cover the cost of providing a childcare place,
- (b) is able to cover the cost of ensuring sufficient training and support for staff engaged in delivering childcare, and

Amendment
No.

After Clause 2—continued

- (c) does not have to subsidise the cost of providing free of charge childcare by placing additional charges on other childcare which they provide.”

BARONESS PINNOCK

31★ Insert the following new Clause—

“Powers of local authority in relation to duty under Childcare Act 2015

After section 8(3) of the Childcare Act 2006 (power of local authority in relation to the provision of childcare) insert—

- “(3A) If an English local authority consider it necessary in order to support the Secretary of State in the discharge of the duty under section 1(1) of the Childcare Act 2015, the local authority may provide childcare for a particular child or group of children if the local authority are satisfied—
 - (a) that no other person is willing to provide the childcare (whether in pursuance of arrangements made with the authority or otherwise), or
 - (b) if another person is willing to do so, that in the circumstances it is appropriate for the local authority to provide childcare.”

LORD TRUE

32★ Insert the following new Clause—

“Impact on childcare settings and premises providers which are unable to participate

Before the coming into force of this Act the Secretary of State must lay before each House of Parliament a report assessing—

- (a) the proportion of nursery and childcare providers that do not currently offer 30 hours a week childcare;
- (b) the incidence of additional payments above the 15 hours free care currently requested by settings participating in the current 15 hour scheme;
- (c) the number of nursery and childcare providers operating in rented premises; and
- (d) the impact on village, parish, community and church halls, sports clubs, and other similar premises of the potential loss of income from nursery and other childcare providers unable to offer 30 hours free childcare.”

33★ Insert the following new Clause—

“Duty to provide equivalent compensation for 30 hours free childcare to parents remaining at home

- (1) The Secretary of State must, within six months of the day on which this Act is passed, lay before both Houses of Parliament a report on proposals to ensure that a parent who—
 - (a) is not in paid employment;

**Amendment
No.**

After Clause 2—continued

- (b) is married to the other parent who is in paid employment; or
 - (c) has a qualifying child;
- shall receive compensation equivalent to the childcare provided to a “qualifying child of working parents” as defined in section 1.
- (2) In this section—
- “childcare”, “parent” and “young child” have the meaning given in section 1; and
 - “qualifying child” means a young child who—
 - (a) is under compulsory school age,
 - (b) is in England, and
 - (c) is of a description specified in regulations made by the Secretary of State under section 1(11).”

Before Clause 3

BARONESS PINNOCK
BARONESS TYLER OF ENFIELD

34 Insert the following new Clause—

“Duty to report: child poverty target

- (1) The Secretary of State must, in each financial year, starting with the date 12 months after the commencement of this Act, report on the impact of the free entitlement to childcare on meeting child poverty targets.
- (2) For the purposes of this section, “child poverty targets” means the targets set out in sections 3 to 6 of the Child Poverty Act 2010.”

Clause 3

LORD TRUE

35★ Page 3, leave out lines 26 to 28

THE EARL OF LISTOWEL

36 Page 3, line 28, at end insert—

- “() Regulations under subsection (6A) must in particular require each English local authority to publish statistical information on turnover rates of early years staff in each early years setting in the local authority’s area.”

BARONESS MASSEY OF DARWEN

37 Page 3, line 28, at end insert—

- “() Regulations may require each English local authority to share information directly with partner agencies in the area including children’s centres.”

Amendment
No.

Clause 3 – continued

LORD TRUE

38★ Page 3, line 35, at end insert –

“(6D) In publishing reports on and assessing the quality and effectiveness of a nursery school or setting or other provider of childcare, neither Ofsted nor any other specified inspection or assessment body may, in reaching its judgement and in publishing such an assessment, take into account whether or not the provider is a participant in the scheme established under this Act.”

After Clause 3

BARONESS PINNOCK
LORD GERMAN
BARONESS JONES OF WHITCHURCH

39 Insert the following new Clause –

“Impact of childcare entitlement on low income working parents

- (1) Within 24 months of the commencement of section 1 of this Act, the Secretary of State must publish a report on the benefits of free childcare provided under section 1 for low income working parents.
- (2) A report under subsection (1) must include an assessment of –
 - (a) the monetary value of the free childcare entitlement to low income working parents;
 - (b) the educational value of the free childcare entitlement for children of low income working parents;
 - (c) the number of low income working parents taking up provision of the free childcare entitlement.
- (3) An assessment under subsection (2)(a) must include an assessment of the extent to which any monetary benefit to low income working parents from the free childcare entitlement is offset by any changes to –
 - (a) working tax credits;
 - (b) child tax credits;
 - (c) universal credit;
 - (d) child benefit,
 that have occurred since the coming into force of this Act.
- (4) An assessment under subsection (2)(c) must include an assessment of the impact on the number of working parents of any changes to working tax credits that have occurred since the coming into force of this Act.
- (5) For the purpose of this section “free childcare entitlement” means any childcare provided free of charge under the duty set out in section 1 of this Act.”

**Amendment
No.****Clause 5**

BARONESS JONES OF WHITCHURCH
LORD TOUHIG

- 40** Page 4, line 2, at beginning insert “Section (*Consultation and reviews*),”
- 41** Page 4, line 4, at beginning insert “Subject to subsection (3A),”
- 42** Page 4, line 7, at end insert —
- “(3A) Sections 1 and 2 may not come into force until after the requirements in section (*Consultation and reviews*) have been met.”

Childcare Bill [HL]

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE

29th June 2015

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS
LONDON - THE STATIONERY OFFICE LIMITED

HL Bill 9—I

(50233)

56/1



ISBN 978-0-10-800219-9



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